ONTARIO HIGHWAY TRANSPORT BOARD

Business Plan
2015/2016

Ontario

Message from the Chair

The Ontario Highway Transport Board (OHTB) is empowered under both provincial and federal legislation to control entry to and maintain an orderly development of the business of transporting passengers for compensation in public vehicles, both within Ontario and between Ontario and other jurisdictions.

The OHTB immediately processes all applications as they are received. Publishing in the Ontario Gazette follows a specific timetable that also includes the filing of an opposition by any interested party and reply by the applicant. Occasionally, delays in setting a date for oral hearings are encountered. These delays are usually due to scheduling problems with the parties and their supporting witnesses or the parties' counsel. There is no backlog of applications or decisions.

Decisions are issued expeditiously and the Board attempts to meet the target of rendering a decision within fourteen days of the completion of a written or oral hearing. To date, in the fiscal year 2014/2015, the Board met this target in all cases.

Costs of operating the Board are kept to a minimum and it continues to operate with mostly part-time administrative staff. Section 24 of the *Public Vehicles Act* empowers the Board to fix, at its discretion, any costs of and incidental to any proceedings. The Board must charge the parties, in full, for costs for any hearing and previous investigations. Most of the hearing expenses are recovered from the participants.

The Board will endeavour to continue to meet the targets in the current fiscal year and it is the Board's 2015/2016 plan to continue to focus on stakeholder satisfaction.

Gary Stanley
Chair

Overview of Agency Activities

The OHTB is a quasi-judicial, arms-length agency of the Government of Ontario that reports to the Minister of Transportation. Its activities include market entry control, licensing and administration of all economic enforcement and sanctioning activities related to the for-hire, intercity bus industry. The OHTB is not involved in safety enforcement.

Generally, any person providing a for-hire public transportation service in a public vehicle is required to comply with the economic regulatory regime as prescribed in the *Public Vehicles Act* and adopted by the federal *Motor Vehicle Transport Act*. The size and type of vehicle used is not a factor, unless the vehicle is specifically exempt. Exempt vehicles include cars of electric or steam railways running only on rail, taxicabs, car pool vehicles, vehicles operating solely within the limits of a local municipality, and vehicles equipped with a lift or ramp mechanism for the boarding of passengers with mobility disabilities.

The OHTB considers applications for public vehicle operating licences based on public necessity and convenience guidelines issued by the Government of Ontario in 1978.

Amendments made to the *Public Vehicles Act* in 1996 (Bill 39) included a sanctioning mechanism where a bus company would file a complaint with the OHTB regarding other bus companies operating illegally (either unlicensed or operating contrary to their licence). The OHTB was given the authority to investigate the complaint through the hearing process and take appropriate action. Bill 39 also gave the Board the authority to impose the costs of the hearing on the parties to the hearing.

A further amendment was made to Section 1 of the *Public Vehicles Act* in April, 2009 (Bill 118) to change the definition of car pool vehicles, which continue to be exempt under the *Public Vehicles Act*. Section 3, Subsection (4)(3) states that a car pool vehicle may be used for trips of not more than 10 persons including the driver between their residences and places of employment or education or points reasonably convenient to those places.

The operational, administrative, financial, and reporting relationships/arrangements between the Agency and the Ministry of Transportation are set out in a Memorandum of Understanding.

Agency Mandate

The mandate of the Agency is to licence and maintain compliance with the economic regulatory regime. This regime controls market entry into the business of transporting passengers for compensation in public vehicles within, into, out of and through Ontario.

The Agency is created by the *Ontario Highway Transport Board Act*, R.S.O. 1990, Chapter O.19, as amended. The powers and authority of the Agency are conferred by:

- the *Ontario Highway Transport Board Act*, R.S.O. 1990, Chapter O.19, as amended;
- the *Public Vehicles Act*, R.S.O. 1990, Chapter P.54, as amended; and

- the *Statutory Powers Procedure Act*, R.S.O. 1990, Chapter S.22, as amended.

The Agency also sits as a federal tribunal exercising powers and authority conferred under the *Motor Vehicle Transport Act*, R.S.1985., c. 29 (3rd Supp.), as amended.

Strategic Direction of Agency

In the Province of Ontario, the intercity motor coach industry is subject to market entry controls. The Board accepts applications for intercity motor coach services and assesses these applications based on public necessity and convenience. A person whose application meets specific criteria (public necessity and convenience) is issued a public vehicle operating licence.

The industry is also self-regulating with respect to disciplinary proceedings, where a person is operating without a public vehicle operating licence or operating beyond the terms and conditions of his/her public vehicle operating licence. During the course of a year, the Board is required to adjudicate on a number of applications initiated by members of the industry. These applications are filed under Sections 10 and 11 of the *Public Vehicles Act*, which provides the Board with the powers to review and sanction alleged illegal operations. In many cases, the carriers who were the subject of these hearings and who were found to be operating illegally, subsequently applied for and received the necessary operating authority and are now part of the legally licensed industry.

The safety of the bus riding public of Ontario is the direct responsibility of the Ministry of Transportation. However, the Board, as part of the requirements under the *Act*, also ensures that sufficient insurance is in force prior to the issuing of a licence. The Board continues to serve both the regulated industry and the public alike in meeting its mandate to ensure that the industry operates in a legal manner.

The Board will continue to meet its objective of rendering most of its decisions expeditiously. As well, every effort is made to ensure that costs are kept to a minimum for the participants.

Environmental Scan

The Ontario government continues to support economic regulation of the public vehicle/intercity motor coach industry.

The OHTB had previously recommended to government that the current provisions related to public vehicle insurance be amended to give the OHTB increased authority to suspend and/or cancel the public vehicle licences of operators that fail to comply with the insurance provisions in the *Public Vehicles Act*. The OHTB recognizes the limited opportunities to initiate legislative change and continues to monitor and review compliance by insurance companies with these provisions.

Licences can be issued to both individuals and companies. As a result of this contact with licensees, the Board has received replies indicating many licensees are deceased or otherwise no longer in business. These licenses are now considered dormant and the licensees' files have been segregated from the active files. Even though these files are no longer active, under the existing legislation the Board has no power to cancel these licences.

In a letter dated September 25, 2014 to the Minister of Transportation, the Premier specified that one of the Ministry's specific priorities is "examining the optimal use of transportation modes across the province. You will develop recommendations on modernizing and appropriately regulating the intercity bus regime to ensure it remains an attractive and affordable travel option for Ontarians."

The OHTB is pleased to provide input and assistance as the government proceeds with this review of the economic regulatory regime.

Consistent with the recommendations of the Commission on the Reform of Ontario's Public Services (Drummond Commission), the government is currently reviewing the impacts of moving the OHTB to the Safety, Licensing Appeals and Standards Tribunals of Ontario (SLASTO).

Initiatives Involving Third Parties

The OHTB is a regulatory and adjudicative agency responsible for economic regulation of the intercity bus industry. Its decisions directly impact on the way in which individual bus companies conduct their daily operations. It is, therefore, not appropriate for the OHTB to engage in initiatives with third parties since the arms-length, quasi-judicial nature of the Agency's activities could be compromised.

Required Resources of Agency

Financial Implications

Although the OHTB legislation is designed with the intention that it be self-funding, it is not fully offset by its revenues. As a result, the Ministry of Transportation must fund the OHTB. In 2014/2015, the Ministry provided funding of $465,000 for the OHTB. This amount is offset by revenues and the recovery of certain expenses from parties involved in hearings.

During fiscal year 2013/2014 the OHTB generated annual revenues through fees from the issuance of licences and recovery of hearing-related expenses of approximately $76,385. This revenue is deposited directly into the Consolidated Revenue Fund and partly offsets required funding. The Board's Annual Report for 2013 showed a recovery of $71,012. (Note – Section 33 of the *Ontario Highway Transport Board Act* requires the OHTB to publish its Annual Report on a calendar year basis. As a result, revenues reported on a provincial government fiscal year basis in this business plan vary from those reported in the Annual Report.)

The Ministry's base allocation for OHTB funding was eliminated in 1996-97 with the passage of Bill 39 and the creation of the self-funding agency. At that time, it was also anticipated that the Board would become defunct commensurate with deregulation that was planned to occur on January 1, 1998. However, at that time, the province opted not to proceed with deregulation as originally planned and was concerned that proceeding with deregulation without accompanying deregulation at the national level and neighbouring provinces would result in an unlevel playing field for Ontario bus companies. These concerns still exist today and as a result, the OHTB continues to administer economic regulation of the intercity bus industry.

Multi-year Financial Table*
($000 except FTE Impacts)

		2013-2014 Actual	2014-2015 Allocation	2015-2016** Forecast	2016-2017** Forecast
Expenditures	S&W	$418.0	$400.0	$410.0	$410.0
	Travel & Communications	10.0	20.0	20.0	20.0
	Equipment & Supplies	25.0	45.0	40.0	40.0
	Total	453.0	465.0	470.0	470.0
Revenue		76.0	70.0	70.0	70.0
FTEs		3.8	3.8	3.8	3.8

*Section 33 of the Ontario Highway Transport Board Act requires the OHTB to publish its Annual Report on a calendar year basis. Actual expenditures and revenues reported on a provincial government fiscal year basis in this business plan vary from those reported in the Annual Report.

**To be identified as part of future year's RbP processes.

As part of the 2014-2015 Business Plan, the Ministry of Transportation identified $465,000 for funding related to the OHTB. Revenues, although offsetting part of the OHTB's operations, are deposited directly into the Consolidated Revenue Fund. The OHTB's net results are usually below that approved allocation of funding received by the Ministry.

The increase in S&W is due to contractual increases under the relevant collective agreements. Travel expenses are based upon the number of out-of-town hearings and investigations; both of these are unpredictable from one year to the next as they are based upon applications and complaints filed by our stakeholders. Other expenses are based on current year's actuals. Revenue, also based upon applications and complaints is similarly unpredictable and therefore remains at a constant based upon this year's to-date actuals.

Human Resources Implications

The Agency is staffed by four persons (2.8 FTEs) appointed under the *Public Service of Ontario Act, 2006* who are eligible for all those rights and benefits accorded under the *Public Service Act*,

and relevant collective agreements. The Agency, in its dealings with staff appointed under the *Public Service of Ontario Act, 2006* is subject to Management Board Directives and Guidelines.

The Agency is also governed by:

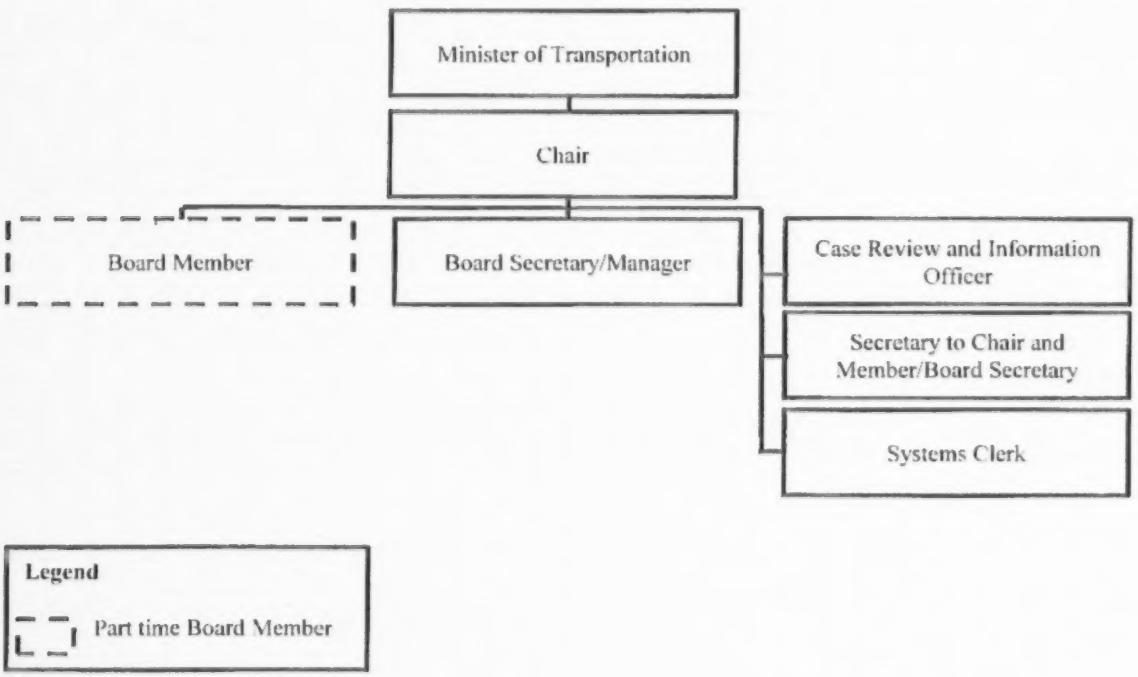
(i) the policies of the Public Service Commission;
(ii) the human resources policies of the Ministry;
(iii) the corporate, financial and administrative policy and procedures;
(iv) applicable collective agreement provisions;
(v) applicable legislation or regulations; and
(vi) any other applicable legislation, regulations, directives, guidelines or policies.

The Chair of the Agency (1 FTE) and one Member are appointed by the Lieutenant Governor in Council, pursuant to section 2(2) of the *Ontario Highway Transport Board Act*. Board members are:

Gary Stanley, Chair (OIC 272/2015), current appointment expires July 9, 2015)
Gilles Morin, Member (OIC 1331/2014), current appointment expires November 15, 2015)

The Chair and Secretary/Manager positions are full-time, while the Member and three administrative staff are part-time. As the part-time Member is an OIC appointee paid on a per diem basis, the position is not included in the FTE total.

Organization Chart



Performance Measures and Targets

Outcome	Performance Measures	Standards/ Targets	2014-2015 Commitments	2014-2015 Achievements	2015-2016 Commitments
Efficient customer service for applications and reviews	Length of time to render decision after completion of written or oral hearing	Decisions to be made within 14 days of completion of written or oral hearing	Decisions will be made within 14 days of completion of hearing date	To date, all decisions have been made within 14 days of completion of hearing date	Decisions will be made within 14 days of completion of hearing date
To provide the highest quality service to the public; efficient response to public complaints	Length of time to appropriately respond to complaints from the public concerning the quality of service received	Response to be provided within 20 working days after the complaint has been received	Response to be provided within 20 working days after the complaint has been received	No complaints from the public received	Response to public complaints will be made within 20 days of receipt of the complaint
To provide the highest quality service to the public; efficient and timely response to any inquiry from the public	Length of time to respond to any inquiry from the public	Response to be provided within 2 days after the inquiry has been received	Response to be provided within 2 days after the inquiry has been received	All general inquiries responded to within 2 days.	Response to be provided within 2 days after the inquiry has been received

Risk Assessment Analysis

In accordance with the requirements of the Agency Establishment and Accountability Directive, the OHTB continues to review the comprehensive Risk Assessment developed during 2011-2012 with the aim of identifying any new or emerging risks as well as related risk mitigation strategies. During the 2015-2016 fiscal year, the OHTB will monitor the effectiveness of these mitigation strategies and refine as appropriate. At present, there are two "moderate to high" risks that have been identified, which are limited in likelihood of occurrence as a result of the risk mitigation strategies in effect.

Risk	Risk Level	Mitigation Strategy
An unlicensed and/or and uninsured carrier operating a public vehicle	Moderate	• Maintain and update OHTB website with current information on PVA licensing and insurance requirements • Continue to respond to

		inquiries regarding PVA licensing and insurance requirements in a timely manner
Misrepresentation of legislation, practices and/or procedures	Moderate to High	• Ensure that any information provided is accurate and timely • Educate stakeholders and other parties • Timely response to inquiries • Maintain OHTB website to ensure that current information is available

The OHTB will continue its efforts to mitigate these risks and provide quality service to its stakeholders and the travelling public.